

**REMARKS**

Claims 1-12 and 19-26 are pending in the application. Claims 13-18 were canceled previously. Claims 1, 9, 20, and 25 are the only independent claims.

Claims 1 and 9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,984,917 to Fleischman et al.

Claims 2-8, 10-12, and 19-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fleischman et al. in view of U.S. Patent No. 5,954,747 to Clark and U.S. Patent No. 4,741,330 to Hayhurst.

Applicant respectfully traverses the rejection of claims 1 and 9 under 35 U.S.C. § 102(e). Applicants claims are directed to a method for reducing ventricular volume and include steps of inserting a cardiac implant or insert in a patient's heart to reduce the volume of at least one *ventricle* of the heart. In contrast, the Fleischman reference is directed solely to an operation performed on the *atria* of a patient's heart. The Fleischman reference provides no teaching or suggestion to use the disclosed method for reducing ventricular volume. None of the references provides any teaching or motivation for so extending the use of the Fleischman method. Accordingly, applicant's claims, directed to an operation on one or both ventricles of the heart, distinguishes over the art relied on by the Examiner. Applicant therefore requests that the application be passed to issue.

Should the Examiner believe that direct contact with applicant's attorney would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the

SN 09/435,525  
W07-431